

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

IN RE: BLACKBAUD, INC.,
CUSTOMER DATA BREACH
LITIGATION

Case No.: 3:20-mn-02972-JMC

MDL No. 2972

**CASE MANAGEMENT ORDER NO. 7C
(LITIGATION SEQUENCING)**

THIS DOCUMENT RELATES TO: ALL ACTIONS

This matter is before the court to address the sequencing of this litigation. (*See* ECF No. 53 at 3.) During the Second Case Management Conference on March 19, 2021, the parties presented proposals for the sequencing of Rule 12 motion practice and discovery in this litigation. As the parties' proposals were irreconcilable, the court asked the parties to meet and confer and submit letters to the court detailing their preferred sequence of motions and discovery. (*Id.*) After carefully considering the statements made at the hearing and the parties' written submissions, the court issues the following Order:

1. LITIGATION SEQUENCING

The first phase of this litigation will address jurisdictional issues, certain statutory claims, and specific common law claims in a sequenced manner. Rather than address these issues in a single omnibus motion to dismiss, each issue will be addressed in a separate round of motion practice. This approach will expedite the resolution of the litigation by allowing the court to decide discrete issues in a sequence that will facilitate the parties' mediation efforts. It will also simplify the briefing process by obviating the need for lengthy filings addressing numerous issues under multiple bodies of law.

a. Jurisdictional Issues

Dismissal motion practice limited to the issues of jurisdiction, standing, forum selection, and other procedural grounds will proceed according to the following schedule:

Event	Filing Deadline
Rule 12(b) Motion(s) on Jurisdiction, Standing, Forum Selection, or Other Procedural Grounds	May 3, 2021
Plaintiffs' Response(s)	June 2, 2021

As Local Civil Rule 7.07 provides that “[r]epplies to responses are discouraged[,]” replies will not be accepted in this sequence or subsequent sequences. Local Civ. Rule 7.07 (D.S.C.)

b. Certain Statutory Claims

Dismissal motion practice limited to certain statutory claims will focus on Plaintiffs' Claim 15 (California Consumer Privacy Act), Claim 16 (California Confidentiality of Medical Information Act), Claim 24 (Florida Deceptive and Unfair Trade Practice Act), Claim 65 (New Jersey Consumer Fraud Act), Claim 67 (New York General Business Law § 349), Claim 75 (Pennsylvania Unfair Trade Practices and Consumer Protection Law), and Claim 79 (South Carolina Data Breach Security Act). (ECF No. 77 at 214-18, 233-37, 342-44, 362-65, 370-72.) This statutory claim sequence will proceed according to the following schedule:

Event	Filing Deadline
Rule 12(b)(6) Motion(s) on Certain Statutory Claims	June 4, 2021
Plaintiffs' Response(s)	July 6, 2021

c. Specific Common Law Claims

Dismissal motion practice limited to specific common law claims will address Plaintiffs' Claim 1 (Negligence), Claim 2 (Negligence *Per Se*), Claim 3 (Gross Negligence), and Claim 4 (Unjust Enrichment). (*Id.* at 173-87.). This common law claim sequence will proceed according to the following schedule:

Event	Filing Deadline
Rule 12(b)(6) Motion(s) on Specific Common Law Claims	July 9, 2021
Plaintiffs' Response(s)	August 9, 2021

As the Consolidated Class Action Complaint does not specify the applicable law for Claims 1, 2, 3, and 4, the court asks the parties to present their positions on the choice of law for this sequence at the Third Case Management Conference on April 30, 2021. (*See id.*) The court will issue a case management order on the issue after the conference.

2. DISCOVERY SEQUENCING

To ensure that the parties are prepared to begin productive settlement conversations in the next six (6) to nine (9) months, the court orders that discovery on ascertainability, damages, and causation begin immediately and end on July 16, 2021.

IT IS SO ORDERED.



United States District Judge

April 16, 2021
Columbia, South Carolina